

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	02-0844
	:	
Amendment of 83 Ill. Adm. Code 551	:	

**STAFF OF THE ILLINOIS COMMERCE
COMMISSION'S REPLY TO RESPONSES TO SECOND
COMMENTS REGARDING FIRST NOTICE OF PROPOSED RULEMAKING**

NOW COMES the Staff of the Illinois Commerce Commission ("Staff" and "Commission"), by and through its attorneys, and files its Reply to Responses to Second Comments Regarding First Notice of Proposed Rulemaking in the above-captioned proceeding pursuant to the Administrative Law Judge's April 23, 2003 Notice of Schedule. Herein, Staff replies to the Response of Peoples Energy Services Corporation to Staff's Second Comments Regarding First Notice of Rulemaking ("PE Services" and "PE Services' Response") and the People of the State of Illinois' Reply to Staff's Second Comments ("People" and "People's Reply"), both filed in this proceeding May 9, 2003. (The Staff of the Illinois Commerce Commission's Second Comments Regarding First Notice of Proposed Rulemaking ("Staff's Second Comments") were filed in this proceeding April 21, 2003. Staff's Second Comments, PE Services' Response, and People's Reply all relate to 83 Ill. Adm. Code 551, "Certification of Alternative Gas Suppliers" ("Part 551").)

PE Services asserts that Staff's proposed revenue-forecasting requirement inflicts additional hardship and cost on alternative gas suppliers ("AGS") without any

corresponding benefit to their customers. (PE Services' Response at 1.) PE Services' criticisms consist of unsubstantiated, vague generalities. Staff does not agree that the revenue-forecasting requirement will cause hardship to an AGS. A company purchasing customers from another AGS typically estimates the expected revenues from the accounts it plans to purchase as part of the analysis determining the viability and profitability of the business opportunity. Further, customers benefit from the added assurance that the AGS has financial resources to service both the current accounts and the additional accounts.

83 III. Adm. Code 551.80, "Financial Qualifications."

PE Services argues that Staff's rationale that an applicant's revenue will grow slowly as it acquires customer accounts over an extended period of time is contrary to the record in the Commission's Alternative Retail Electric Supplier ("ARES") rulemaking (Docket No. 02-0176) as well as historical trends. (PE Services' Response at 2.) PE Services proposes that the Commission reject Staff's proposed language. (PE Services' Response at 3.) Contrary to PE Services' assertion, customer growth was not discussed in Docket No. 02-0176. Staff suggests below that the purchase of a significant number of customer accounts from another AGS demonstrably affects a company's financial data.

83 III. Adm. Code 551.80(c), (d), and (f) rely on revenue from the most recently completed fiscal year to determine whether an AGS has sufficient financial resources to provide the service for which it seeks a certificate of service authority. The revenue figure from the previous fiscal year is easy for an AGS to provide. That benefit, however, comes at a price: the more rapid the acquisition of customers, the less

relevant the financial data from the previous time period becomes. If an AGS purchases a significant number of customer accounts from another AGS, revenue from the previous fiscal year becomes a poor indicator of the size of the AGS' operations and financial resources. Thus, the assessment of an AGS' financial ability is not meaningful unless the effect of the acquired accounts on the AGS' financial data is assessed.

PE Services also argues that retail gas marketers have operated in Illinois since the mid-1980s and that, during the more than fifteen years they operated before Article 19 of the Public Utilities Act ("Act") was enacted, there were many consolidations attributable to marketers purchasing customer accounts from other exiting marketers. (PE Services' Response at 2-3.) Simply because consolidation occurred before Article 19 was enacted, an AGS is not relieved from current legal requirements due to past actions.

PE Services argues that the purpose of the present proceeding is to ensure consistency between Part 551 and Article 19 of the Act. It proposes that the "Commission reject [Staff's] proposed language because neither the Article 19 amendments nor the Staff report that initiated this rulemaking contemplated such a drastic change from the current rule." (PE Services' Response at 3.) Staff agrees that there should be consistency between Article 19 of the Act and Part 551. However, Staff disagrees that the proposed change is drastic or invites inconsistency. The change merely modifies the financial requirements in Part 551 to ensure AGS compliance with Section 19-110(e)(1) of the Act, which states an "applicant must possess sufficient, technical, *financial*, and managerial resources and abilities to provide the service for which it seeks a certificate of service authority." (Emphasis added.) Staff's proposed

additions provide assurance that an AGS has sufficient financial resources to provide service to all of its customers, including customers acquired from another AGS.

PE Services argues that the ARES rules (83 Ill. Adm. Code 451.10 *et seq.*, “Certification of Alternative Retail Electric Suppliers,” (“Part 451”)) do not include a similar requirement as well as that the financial requirements for an AGS should be lower than those for an ARES. It recommends rejecting the language in 83 Ill. Adm. Code 551.80 to maintain ARES-AGS consistency.

Staff does not deny that consistency between the AGS and ARES rules is desirable whenever AGS and ARES share similar characteristics and circumstances. However, Part 451 is not currently the subject of a Commission rulemaking. PE Services seems to suggest that financial requirements for AGS cannot be changed unless the financial requirements for ARES are also changed, either simultaneously or beforehand. Clearly, this solution is not always practical. Real and identifiable weaknesses in Part 551 should not be maintained simply because these weaknesses exist in Part 451 as well. For instance, problems Staff identifies regarding letters of credit in 83 Ill. Adm. Code 551.80(e) also exist in the ARES rules at 83 Ill. Adm. Code 451.110(a)(4), 451.220(a)(4), and 451.320(a)(4), yet no one argues that these problems should remain in the AGS rule until they can be eliminated from the ARES rule.

In addition, Staff does not agree that its proposed changes to 83 Ill. Adm. Code 551.80(c), (d) and (f) regarding purchases of customer accounts result in higher financial requirements for an AGS than an ARES. While 83 Ill. Adm. Code 551.80(c), (d) and (f) base the amount of financial resources on the greater of \$500,000 or 5% of

annual revenue, the corresponding ARES rules (83 Ill. Adm. Code 451.320(a)(2), (3) and (5)) base this amount on the greater of \$1 million or 10% of annual revenue. An AGS' financial requirements are half the size of an ARES' financial requirements.

PE Services suggests that the determination of revenues and accounts expected to be acquired will be problematic. It asks the Commission to reject Staff's proposal as vague and ambiguous; it is not precise and clear, as Section 5-20 of the Illinois Administrative Procedures Act ("IAPA") requires. (PE Services' Response at 4.)

Staff agrees that its proposal needs to be changed to clarify that the adjustment applies when an AGS buys customer accounts from another AGS but not when a customer decides to switch from one AGS to another. Accordingly, it recommends changing "acquired" to "purchased" in applicable instances. The determination of "expected" revenue or the expected number of accounts should not be problematic for an AGS purchasing accounts from another AGS. It knows the number of accounts that it plans to purchase and can estimate expected revenues when determining the total purchase price. Staff believes its simple word substitution offers the precise, clear standard IAPA Section 5-20 anticipates.

PE Services also argues that the timing of Staff's Second Comments is contrary to the spirit and intent of IAPA rulemaking procedures. (PE Services' Response at 5.) Staff disagrees and suggests that PE Services take another look at the IAPA. Section 5-40(b) provides for a **minimum** 45-day first notice period commencing on the first day the notice appears in the *Illinois Register*. The first notice period does not end after 45 days, contrary to PE Services' suggestion. Rather, Section 5-40(c) provides that the first notice period continues indefinitely until the Joint Committee on Administrative

Rules (“Joint Committee”) accepts second notice from the Commission. Since the Commission has not presently adopted an order authorizing the submission of second notice to the Joint Committee, Staff is well within the spirit, intent, and specific requirements of the IAPA.

Staff recognizes and appreciates the flexibility that the IAPA provides. While Staff appreciates the necessity for progress in the present rulemaking, it also realizes the necessity for clear, precise solutions. Article 19 creates new and sometimes unforeseen implementation challenges; Staff cannot always control the pace at which new issues arise, but it seeks to address them flexibly, precisely, and in the most expedient manner possible.

83 III. Adm. Code 551.140, “Financial Reporting Requirements.”

PE Services proposes that 83 III. Adm. Code 551.140 clearly state the impact of 83 III. Adm. Code 551.80 on an AGS’ demonstration of compliance. (PE Services’ Response at 7.) The People also support additional language in 83 III. Adm. Code 551.140 and offer a sensible provision. (Peoples’ Reply at 1.) Staff agrees that additional language is necessary to clarify an AGS’ reporting of how it meets the changes in 83 III. Adm. Code 551.80. Staff supports the principle and effort behind the People’s clarification of AGS reporting responsibilities, adjusting this proposed language to clarify that an AGS must demonstrate the sufficiency of its financial resources under any subsection of 83 III. Adm. Code 551.80, not merely (c), (d) or (f).

Staff's Proposed Changes to 83 Ill. Adm. Code 551.80 and 551.140.

Accordingly, Staff recommends that the Commission make the following changes to the proposed amendments to 83 Ill. Adm. Code 551.80 and 551.140 (amendments proposed in the Commission's first notice order appear in underline and ~~striketrough~~; Staff's recommended second notice amendments appear in double underline and ~~double striketrough~~; and changes since Staff's Second Comments appear in CAPITAL LETTERS.):

Section 551.80 Financial Qualifications

An applicant shall be deemed to possess sufficient financial resources to be certified as an AGS able to serve available residential or small commercial customers if it meets any of the following criteria:

- a) The applicant provides a copy of a Dun & Bradstreet Business Information Report that demonstrates, at a minimum, that the applicant has a Composite Credit Appraisal of "3" or lower and a PAYDEX score of "70" or higher. If the applicant does not have a Dun & Bradstreet Composite Credit Appraisal, the applicant provides a copy of an Experian Small Business Intelliscore report that demonstrates, at a minimum, that the applicant has an Intelliscore of "63" or higher. At the time of application for certification, the report shall be no more than 30 days old.
- b) The applicant maintains at least one of the following short-term credit ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, or F-2 or higher from Fitch Ratings or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, or BBB- or higher from Fitch Ratings or its successor. The applicant shall provide with its application a copy of the ratings agency reports that present the ratings of the applicant.
- c) The applicant maintains a borrowing agreement with an affiliate.
 - 1) The affiliate must have at least one of the following short-term credit ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service

or its successor, or F-2 or higher from Fitch Ratings or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, or BBB- or higher from Fitch Ratings or its successor.

- 2) The amount of credit available to the applicant under the borrowing agreement shall be no less than the greater of \$500,000 or 5% of the amount of the applicant's revenue for its most recently completed fiscal year adjusted for any amount of revenue expected from customer accounts PURCHASED or expected to be PURCHASED from another AGS. That The amount of revenue for the applicant's most recently completed fiscal year must appear in the applicant's certified financial statements, or those of the applicant's parent, that have received an accountant's report that certifies those financial statements to be free of material misstatement. If the applicant is using the certified financial statements of its parent, the amount of credit available under the borrowing agreement shall be determined using the applicable revenue amount from the segment information section of the certified financial statements of the applicant's parent.
 - A) If the applicant is listed separately in the segment information section, the applicant's revenue shall be used.
 - B) If the segment information section is broken down by operation, or other means, the revenue for the entire segment of which the applicant is part shall be used, unless a certified breakdown of the segment by company is provided.
- 3) The borrowing agreement shall be valid for a period of not less than one year.
- 4) The applicant shall provide a copy of the following:
 - A) The ratings agency reports that present the ratings of the affiliate with which the applicant maintains the borrowing agreement;
 - B) The borrowing agreement;

C) The applicant's certified financial statements, or those of the applicant's parent, as applicable; ~~and~~

D) The accountant's report for the applicant's certified financial statements or those of the applicant's parent, as applicable; and

E) Documents supporting any estimate of revenue from customer accounts PURCHASED or expected to be PURCHASED from another AGS.

d) The obligations of the applicant to unaffiliated companies arising from the acquisition of natural gas that can be delivered to residential or small commercial customers in the State of Illinois, for sale or lease or in exchange for other value received are covered under a guarantee, payment bond, or letter of credit.

1) This option is only available to an applicant that will engage in activities that could result in the applicant holding an ownership interest in or taking title to natural gas for the purpose of sale or resale to Illinois residential or small commercial customers.

2) The guarantee, payment bond, or letter of credit shall be in an amount that is no less than the greater of \$500,000 or 5% of the amount of the applicant's revenue from the sale of natural gas for the most recently completed fiscal year adjusted for any amount of revenue expected from customer accounts PURCHASED or expected to be PURCHASED from another AGS. ~~That~~ The amount of revenue for the applicant's most recently completed fiscal year must appear in the applicant's certified financial statements, or those of the applicant's parent, that have received an accountant's report that certifies those financial statements to be free of material misstatement. If the applicant is using the certified financial statements of its parent, the amount of credit available under the borrowing agreement shall be determined using the applicable revenue amount from the segment information section of the certified financial statements of the applicant's parent.

A) If the applicant is listed separately in the segment information section, the applicant's revenue shall be used.

- B) If the segment information section is broken down by operation, or other means, the revenue for the entire segment of which the applicant is part shall be used, unless a certified breakdown of the segment by company is provided.
- 3) The guarantee, payment bond, or letter of credit shall be valid for a period of not less than one year.
- 4) Guarantee. The guarantor shall be an affiliate of the applicant that maintains at least one of the following short-term credit ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, or F-2 or higher from Fitch Ratings or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, or BBB- or higher from Fitch Ratings or its successor. The guarantee shall obligate the guarantor to make contractually required payment, net of set-offs for any amounts owed to the applicant, to the supplier for services rendered or gas supplied in the event the applicant defaults. The applicant shall provide a copy of the following:
 - A) The ratings agency reports that present the ratings of the affiliate that is the guarantor;
 - B) The guarantee; ~~and~~
 - C) The applicant's certified financial statements, or those of the applicant's parent, as applicable, including the accountant's report. If the amount of the guarantee is without dollar limitation, neither the applicant's certified financial statements, nor those of the applicant's parent, are required; and
 - D) Documents supporting any estimate of revenue from customer accounts PURCHASED or expected to be PURCHASED from another AGS.
- 5) Payment Bond. An applicant using a payment bond or payment bonds shall provide a copy of the following:
 - A) The payment bonds;

- B) The certified financial statements of the applicant or those of the applicant's parent, as applicable; ~~and~~
 - C) The accountant's report for the certified financial statements of the applicant or those of the applicant's parent, as applicable; ~~and~~
 - D) Documents supporting any estimate of revenue from customer accounts PURCHASED or expected to be PURCHASED from another AGS.
- 6) Letter of Credit. The letter of credit shall be irrevocable and issued by a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, or A- or higher from Fitch Ratings or its successor. The applicant shall provide a copy of the following:
- A) The letter of credit;
 - B) The ratings agency report that presents the long-term obligation rating of the financial institution extending the credit;
 - C) The certified financial statements of the applicant or those of the applicant's parent, as applicable; ~~and~~
 - D) The accountant's report for the certified financial statements of the applicant or those of the applicant's parent, as applicable; ~~and~~
 - E) Documents supporting any estimate of revenue from customer accounts PURCHASED or expected to be PURCHASED from another AGS.
- e) The applicant certifies that it will offer to reimburse its Illinois residential and small commercial customers for the additional costs those customers incur to acquire natural gas as a result of the applicant's failure to comply with a contractual obligation to supply such energy. The applicant's prospective obligation to reimburse Illinois residential and small commercial customers shall be covered by an unconditional guarantee, or payment bond, ~~or letter of credit~~. Any dollar limitation on the unconditional guarantee, or payment bond, ~~or letter of credit~~ shall equal not less than an estimate of the maximum monthly number of Mcf of natural gas the applicant

expects to schedule over the next 12 months times the 12-month average of the "Average City Gate Price, by State" for Illinois, as disclosed for the most recent 12-month period in the Energy Information Administration's (EIA) "Natural Gas Monthly". The most recent 12 months of data is available on the EIA's internet website (www.eia.doe.gov). The Average City Gate Price used shall be from not more than 28 days prior to the date of the application. The unconditional guarantee, or payment bond, ~~or letter of credit~~ shall be valid for a period of not less than one year.

- 1) Unconditional Guarantee. The guarantor shall be an affiliate of the applicant that maintains at least one of the following short-term credit ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, or F-2 or higher from Fitch Ratings or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, or BBB- or higher from Fitch Ratings or its successor. The applicant shall provide a copy of the following:
 - A) The ratings agency reports that present the ratings of the affiliate that is the guarantor;
 - B) The unconditional guarantee; and
 - C) A good faith estimate of the maximum daily amount of natural gas in dekatherms the applicant will schedule during the remainder of the current calendar year.
- 2) Payment Bond. The payment bond or payment bonds shall be issued by a qualifying surety authorized to transact business in the State of Illinois or by a surety whose Best's rating is A- or better and whose Best's financial size category is VII or larger, and whose contract of insurance is issued pursuant to Section 445 or 445a of the Illinois Insurance Code [215 ILCS 5/445 or 445a] and countersigned by the Surplus Line Association of Illinois or its successor. The applicant shall provide a copy of the following:
 - A) The payment bonds or the contract of insurance with the countersignature of the Surplus Line Association of Illinois or its successor as applicable; and

- B) A good faith estimate of the maximum daily amount of natural gas in dekatherms the applicant will schedule during the remainder of the current calendar year for residential and small commercial customers.
- 3) ~~Letter of Credit. The letter of credit shall be irrevocable and issued by a financial institution with a long term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, or A- or higher from Fitch Ratings or its successor. The applicant shall provide a copy of the following:~~
- A) ~~The letter of credit;~~
- B) ~~The ratings agency report that presents the long term obligation rating of the financial institution extending the credit; and~~
- C) ~~A good faith estimate of the maximum daily amount of natural gas in dekatherms the applicant will schedule during the remainder of the current calendar year for residential customers.~~
- f) The applicant maintains a line of credit or revolving credit agreement.
- 1) The line of credit or revolving credit agreement must be from a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, or A- or higher from Fitch Ratings or its successor.
- 2) The amount of the line of credit or revolving credit agreement shall be no less than the greater of \$500,000 or 5% of the amount of the applicant's revenue for the most recently completed fiscal year adjusted for any amount of revenue expected from customer accounts PURCHASED or expected to be PURCHASED from another AGS. That The amount of revenue for the applicant's most recently completed fiscal year must appear in the applicant's certified financial statements, or those of the applicant's parent, that have received an accountant's report that certifies those financial statements to be free of material misstatement. If the applicant is using the certified financial statements of its parent, the amount of credit available under the borrowing

agreement shall be determined using the applicable revenue amount from the segment information section of the certified financial statements of the applicant's parent.

- A) If the applicant is listed separately in the segment information section, the applicant's revenue shall be used.
 - B) If the segment information section is broken down by operation, or other means, the revenue for the entire segment of which the applicant is part shall be used, unless a certified breakdown of the segment by company is provided.
- 3) The line of credit or revolving credit agreement shall be valid for a period of not less than one year.
- 4) The applicant shall provide a copy of the following:
- A) The line of credit or revolving credit agreement;
 - B) The ratings agency report that presents the long-term obligation rating of the financial institution extending the credit;
 - C) The applicant's certified financial statements, or those of the applicant's parent, as applicable; ~~and~~
 - D) The accountant's report for the certified financial statements of the applicant or those of the applicant's parent, as applicable; and
 - E) Documents supporting any estimate of revenue from customer accounts PURCHASED or expected to be PURCHASED from another AGS.
- g) The applicant earns 12 points on the financial ratios set forth in subsection (g)(1):

1) Financial Ratios

- A) Pre-Tax Interest Coverage (rounded to the nearest 0.1)

4.4 or above: 5 points

3.9 to 4.3: 4 points

3.4 to 3.8: 3 points
 2.9 to 3.3: 2 points
 2.4 to 2.8: 1 point
 2.3 or below: 0 points

- B) Funds from Operations Interest Coverage (rounded to the nearest 0.1)

4.9 or above: 5 points
 4.4 to 4.8: 4 points
 3.9 to 4.3: 3 points
 3.4 to 3.8: 2 points
 2.9 to 3.3: 1 point
 2.8 or below: 0 points

- C) Funds from Operations to Average Total Debt (rounded to the nearest 1%)

38% or above: 5 points
 33% to 37%: 4 points
 28% to 32%: 3 points
 23% to 27%: 2 points
 18% to 22%: 1 point
 17% or below: 0 points

- D) Total Debt to Total Capitalization (rounded to the nearest 1%)

50% or below: 5 points
 51% to 53%: 4 points
 54% to 56%: 3 points
 57% to 59%: 2 points
 60% to 62%: 1 point
 63% or above: 0 points

- 2) The applicant shall provide the following:

- A) The applicant's certified financial statements for its most recently completed fiscal year;
- B) The accountant's report for the applicant's certified financial statements; and
- C) A schedule showing the calculation of each financial ratio with a reference to the applicant's certified

financial statements provided for each input of the calculation.

Section 551.140 Financial Reporting Requirements

The AGS shall provide a copy of only those documents that the AGS requires to demonstrate that it continues to possess sufficient financial resources to serve the residential customers for which it has received a certificate of service authority. The applicable documents shall be submitted at the times specified below:

- a) An AGS that seeks to demonstrate that it maintains sufficient financial resources to provide the services for which it has received a certificate of service authority using the criteria set forth in Section 551.80(a) shall submit an updated copy of a Dun & Bradstreet Business Information Report that demonstrates, at a minimum, that the AGS has a Composite Credit Appraisal of "3" or lower and a PAYDEX score of "70" or higher. If the AGS does not have a Dun & Bradstreet Composite Credit Appraisal, the AGS shall file an updated copy of an Experian Small Business Intelliscore report that demonstrates, at a minimum, that the AGS has an Intelliscore of "63" or higher. The applicable updated report shall be filed between January 1 and January 31 of each year. The report shall be no more than 30 days old at the date of the annual filing.
- b) An AGS that seeks to demonstrate that it maintains sufficient financial resources to provide the services for which it has received a certificate of service authority using the criteria set forth in Section 551.80(b), (c), (d)(4), (d)(6), (e)(1), (e)(3), or (f) shall submit a copy of the latest ratings report presenting the short-term or long-term credit or obligation ratings of the AGS, creditors, affiliates, or guarantors, as applicable, from the ratings agencies between January 1 and January 31 of each year and within 15 days following any downgrade of such ratings previously filed with the Commission to a rating below A-1 or A-, if issued from Standard & Poor's or its successor, P-1 or A3, if issued from Moody's Investors Service or its successor, or F-1 or A-, if issued from Fitch Ratings or its successor. Within 30 days after a downgrade of the short-term or long-term credit or obligation ratings of the AGS or its creditors, affiliates, or guarantors, as applicable, to a level below the minimum required under this Part, the AGS shall submit a report that identifies the subsection under which the AGS is seeking to demonstrate that its financial resources remain sufficient for providing the services for which it has received a certificate of

service authority and includes the information and documents that subsection requires.

- c) An AGS that seeks to demonstrate that it maintains sufficient financial resources to provide the services for which it has received a certificate of service authority using the criteria set forth in Section 551.80(c), (d), (e), or (f) shall submit a copy of any modified, replacement or additional borrowing agreements, unconditional guarantees, lines of credit, revolving credit agreements, payment bonds, and letters of credit, as applicable, at least 15 days in advance of any modification, cancellation or expiration of the financial agreements.
- d) Between January 1 and January 31 of each year, an AGS that seeks to use the criteria specified in Section 551.80(d) to demonstrate that it maintains sufficient financial resources to provide the services for which it has received a certificate of service authority shall provide the maximum daily amount of natural gas scheduled in dekatherms during the previous calendar year and the date on which that amount was scheduled. If the AGS has been serving Illinois residential customers for less than 12 months, the AGS shall also provide an estimate of the maximum daily amount of natural gas in dekatherms it will schedule during the current calendar year.
- e) An AGS that seeks to demonstrate that it maintains sufficient financial resources to provide the services for which it has received a certificate of service authority using the criteria set forth in Section 551.80(c), (d), (f), or (g) shall submit a copy of its certified financial statements, or those of its parent, and accountant's report, as applicable, within 120 days after the close of its fiscal year.

F) AN AGS SHALL NOTIFY THE COMMISSION OF ANY AGREEMENT INTO WHICH THAT AGS HAS ENTERED TO PURCHASE CUSTOMER ACCOUNTS FROM ANOTHER AGS. THE NOTICE SHALL BE FILED AT LEAST 15 DAYS IN ADVANCE OF CONSUMMATION OF THAT AGREEMENT AND SHALL INCLUDE (1) A DEMONSTRATION THAT THE AGS' FINANCIAL RESOURCES REMAIN SUFFICIENT TO SERVE ITS CUSTOMERS AND THOSE WHOSE ACCOUNTS ARE TO BE PURCHASED PURSUANT TO THAT AGREEMENT; AND (2) THE DOCUMENTATION REQUIRED IN THE SUBSECTION OF SECTION 551.80 UNDER WHICH THE AGS SEEKS TO DEMONSTRATE THE SUFFICIENCY OF ITS FINANCIAL RESOURCES.

Staff respectfully requests that the Commission submit the proposed amendments to 83 Ill. Adm. Code 551 with the additions suggested in the Staff of the Illinois Commerce Commission's Comments Regarding First Notice of Proposed Rulemaking, Staff's Second Comments, and above as its second notice of proposed rulemaking.

Respectfully submitted,

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